

THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

GUAIRONEX MARTINEZ,

Plaintiff,

v.

BROOKMONT HEALTH CARE CTR.,

Defendant.

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3:18-CV-1557
(JUDGE MARIANI)

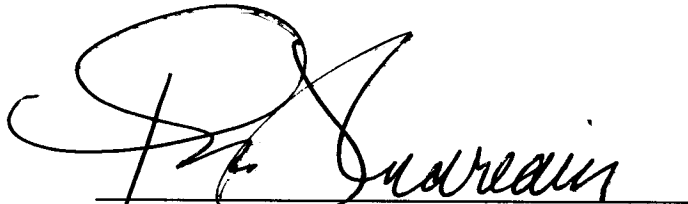
ORDER

AND NOW, THIS 15th DAY OF JUNE, 2019, upon review of Chief Magistrate Judge Schwab's Report and Recommendation ("R&R") (Doc. 25) for clear error or manifest injustice, **IT IS HEREBY ORDERED THAT:**

1. The R&R (Doc. 25) is **ADOPTED** for the reasons set forth therein as well as those set forth in Judge Schwab's prior R&R (Doc. 22) and this Court's Order (Doc. 23) adopting as modified that R&R.
2. The above-captioned action is **DISMISSED WITHOUT PREJUDICE** for lack of subject matter jurisdiction. Plaintiff should understand that this Court's dismissal of the action for lack of subject matter jurisdiction is not an adjudication on the merits of Plaintiff's case and does not prevent him from attempting to bring this action in a different forum, *i.e.* state court. *See New Jersey Physicians, Inc. v. President of U.S.*, 653 F.3d 234, 241 n.8 (3d Cir. 2011) ("the District Court's dismissal for lack of subject matter jurisdiction [is] by definition without prejudice."); *Figueroa v.*

Buccaneer Hotel Inc., 188 F.3d 172, 182 (3d Cir. 1999) (agreeing that “a dismissal for lack of subject matter jurisdiction is not an adjudication on the merits and thus should be ordered without prejudice.”).

3. The Clerk of Court is directed to **CLOSE** this action.



Robert D. Mariani
United States District Judge